To amend section 1201 of title 17, United States Code, to require the infringement of a copyright for a violation of such section, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To amend section 1201 of title 17, United States Code, to require the infringement of a copyright for a violation of such section, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Unlocking Technology

5 Act of 2013”.

April 29, 2013 (11:43 a.m.)
SEC. 2. INFRINGEMENT OF A COPYRIGHT REQUIRED FOR ANTICIRCUMVENTION PROHIBITION.

(a) Amendments.—Section 1201(a) of title 17, United States Code, is amended—

(1) in paragraph (1)(A)—

(A) by amending the first sentence to read as follows: “No person shall, in order to infringe or facilitate infringement of a copyright in a work protected under this title, circumvent a technological measure that effectively controls access to that work.”; and

(B) by adding at the end the following: “It shall not be a violation of this section to circumvent a technological measure in connection with a work protected under this title if the purpose of such circumvention is to engage in a use that is not an infringement of copyright under this title.”;

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting after “for the purpose of” the following: “facilitating the infringement of a copyright by”;

(B) in subparagraph (B), by striking “circumvent” and inserting “facilitate the infringement of a copyright by circumventing”; and
(C) in subparagraph (C), by inserting after “for use in” the following: “facilitating the infringement of a copyright by”; and

(3) by redesigning paragraph (3) as paragraph (4), and inserting after paragraph (2), the following new paragraph:

“(3) It is not a violation of this section to use, manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof that is primarily designed or produced for the purpose of facilitating noninfringing uses of works protected under this title by circumventing a technological measure that effectively controls access to that work, unless it is the intent of the person that uses, manufactures, imports, offers to the public, provides, or traffies in the technology, product, service, device, component, or part to infringe copyright or to facilitate the infringement of a copyright.”.

(b) Report Required.—

(1) In general.—Not later than the end of the 9-month period beginning on the date of the enactment of this Act, the Assistant Secretary for Communications and Information of the Department of Commerce shall submit to the committees described in paragraph (2) a report on—
(A) the impact of section 1201 of title 17, United States Code, on consumer choice, competition, and free flow of information;

(B) whether section 1201 of such title should be reformed in part, reformed entirely, or repealed; and

(C) barriers and challenges to such reform or repeal, including international trade agreements and treaties.

(2) COMMITTEES.—The committees described in this paragraph are the following:

(A) The Committees on the Judiciary and Energy and Commerce of the House of Representatives.

(B) The Committees on the Judiciary and Commerce, Science, and Transportation of the Senate.

SEC. 3. NETWORK SWITCHING NOT INFRINGEMENT.

Section 117 of title 17, United States Code, is amended by adding at the end of the following new subsection:

“(e) NETWORK SWITCHING.—Notwithstanding the provisions of section 106, it is not an infringement to copy or adapt the software or firmware of a user-purchased mobile communications device for the sole purpose of ena-
bling the device to connect to a wireless communications network if—

“(1) the copying or adapting is initiated by, or with the consent of, the owner of that device or the owner’s agent;

“(2) the owner of that device or the owner’s agent is in legal possession of the device; and

“(3) the owner of that device has the consent of, or an agreement with, the authorized operator of such wireless communications network to make use of that wireless communications network.”.

SEC. 4. HARMONIZATION OF TRADE AGREEMENTS.

The President shall take the necessary steps to secure modifications to applicable bilateral and multilateral trade agreements to which the United States is a party in order to ensure that such agreements are consistent with the amendments made by this Act.

SEC. 5. EFFECTIVE DATE.

(a) Amendments.—The amendments made by this Act shall apply to acts carried out after the expiration of the 9-month period beginning on the date of the enactment of this Act.

(b) Report.—Sections 2(b) and 4 shall take effect on the date of the enactment of this Act.